

United States District Court
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

JASON LEE VAN DYKE

v.

THOMAS RETZLAFF, a/k/a DEAN
ANDERSON, d/b/a VIA VIEW FILES LLC,
and VIA VIEW FILES

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1:20-MC-657-LY

Civil Action No. 4:18-CV-247

Judge Mazzant

ORDER

On June 22, 2020, Non-Party James McGibney (“McGibney”) filed a Motion to Quash Subpoena (Dkt. #183). The subpoena, served by Defendant Thomas Retzlaff, commands McGibney to appear for deposition on June 23, 2020 in Austin, Texas (Dkt. #182). Also, on June 22, 2020, Plaintiff Jason Lee Van Dyke filed his brief in support of McGibney’s motion (Dkt. #184).

Federal Rule of Civil Procedure 45 governs subpoenas to non-parties. FED. R. CIV. P. 45. Under Rule 45, a non-party must file a motion to quash or modify a subpoena in the court for the district where compliance is required. *Johnson v. Air Liquide Large Indus. U.S. L.P.*, No. 2:18-CV-259-WCB, 2019 WL 4394854, at *3 (E.D. Tex. Sept. 13, 2019); *see also* FED. R. CIV. P. 45(d)(3) (listing circumstances under which “the court for the district where compliance is required must quash or modify a subpoena”).

Here, compliance is required in Austin, Texas, because that is where the proposed deposition would take place. Austin, Texas, is in the Western District of Texas. Accordingly, any motion to quash or modify a subpoena would have to be filed in the Western District of Texas, not in this Court.

It is therefore **ORDERED** that Non-Party James McGibney's Motion to Quash Subpoena (Dkt. #183) is **DISMISSED without prejudice** to refile before the appropriate court.

IT IS SO ORDERED.

SIGNED this 22nd day of June, 2020.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE